

Service Date: August 29, 1990

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application	) UTILITY DIVISION
of the MONTANA POWER COMPANY for	)
Authority to Establish Increased	) DOCKET NO. 90.6.39
Rates and Charges for Electric	)
Service in the State of Montana.	) INTERIM ORDER NO. 5484c
_____	)

\* \* \* \* \*  
INTERIM ORDER  
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On June 27, 1990, the Montana Power Company (MPC, Company, or Applicant) filed an application with the Montana Public Service Commission (Commission) for authority to increase rates for electric and gas services. The application showed a total jurisdictional electric utility revenue deficiency of \$60,657,272 and a natural gas utility revenue deficiency of \$9,581,408. A motion for an interim increase in rates was filed concurrent with the general case. The application showed that the deficiency calculated in accordance with the Commission's interim rate increase rules (ARM Section 38.5.501, et seq.) is \$30,631,352 for the Montana segment of MPC's electric utility. This Order address MPC's interim rate increase request for its electric utility. Pursuant to ARM 38.5.503, Applicant has given proper notice of its interim rate increase requests. Such notice was given to the Montana Consumer Counsel, parties to applicant's most recent general rate increase application, and to media for general dissemination state-wide. The notice advised interested parties to notify the Commission speedily of any comments relative to the request.

MPC's electric interim revenue increase request of \$30,631,352 would result in a uniform percentage increase of 11.4 percent. MPC requests that the electric interim increase, including the effect of the WNP-1 accrual, have an effective date of August 29, 1990, the date of the annual Rate Moderation Plan rate change.

On July 2, 1990, the Commission approved Interim Order No. 5484 in Docket No. 90.6.39, granting MPC interim authority to accrue the unreflected costs of WNP-1 power from the effective date of that order to August 29, 1990. That order is subject to refund provisions, depending on the outcome of this matter in

the Final Order in this Docket.

MPC says that the proposed interim increases were calculated in accordance with the Commission's rules, and therefore, include several adjustments to the Company's revenue requirements, including an overall Rate of Return of 10.44 percent and a Cost of Equity of 12.50 percent for the electric utility. These percentage levels were approved in MPC's most recent electric rate filing in Docket No. 88.6.15.

The electric interim request also calculates a coal cost adjustment consistent with the methodology and allowed coal company return approved in Docket No. 88.6.15. Also, the methodology used to calculate electric net power costs for interim purposes conforms to that used in Docket No. 88.6.15. Finally, the interim request includes several other adjustments to conform with the Commission's rules which are detailed in the filing's accompanying workpapers.

#### Commission Analysis

The Commission finds that all adjustments in this Interim Order must be made from the data shown on pages 1-9 of 68 in Appendix 1 of MPC's Electric Utility Interim Revenue Requirement Workpapers.

As stated above, MPC made several adjustments in its interim filing to conform with adjustments, methodologies, and calculations approved in Docket No. 88.6.15. The Commission accepts those proposed adjustments for Interim purposes, except for those discussed and altered below and throughout the remainder of this Interim Order. Per the discussion in the immediately preceding Finding of Fact, all Commission adjustments discussed below, therefore, are made to MPC's pro forma Montana jurisdictional revenues, expenses, and rate base as shown in Column F on page 4 of 68 in Appendix 1 of MPC's Electric Utility Interim Revenue Requirement Workpapers.

#### Capital Structure and Cost of Capital

The currently authorized overall rate of return for MPC's electric utility is, per Docket No. 88.6.15, as follows:

Description	Ratio	Cost	Weighted Cost
Long Term Debt	50.00%	9.00%	4.50%
Preferred Stock	6.00%	7.29%	0.44
Common Equity	44.00%	12.50%	5.50
Total	100.00%		10.44%
	=====		=====

The issues of capital structure and cost of capital will likely be contested matters in this docket.

However, the Commission finds that the above structure and costs represent reasonable levels for interim purposes and approves 10.44% as the overall rate of return to be utilized in this Interim Order.

#### Captive Coal

In calculating the captive coal cost adjustment, the Company used Consumer Price Index (CPI) data through February of 1990. At the Commission's request, the Company provided the most recent CPI information available. Therefore, the Commission finds that a reduction in coal expense from affiliate transactions is proper and approves an adjustment in this interim proceeding in the amount of \$80,911 to reflect currently available CPI information.

#### Hydro Rents Adjustment

In its interim filing, MPC proposed to include the estimated 1990 level of rent cost at the Kerr Dam hydro facility based on the projected amount effective on September 5, 1990. The Commission rejects this estimate on the basis that it is not known and measurable. Instead, for interim purposes, the Commission accepts the annual rent level effective September 1989. Therefore, the Commission finds that a reduction of hydro rent expense is proper and approves an adjustment in the amount of \$376,774 in this interim proceeding to reflect known and measurable hydro rent costs.

#### Labor Expense Adjustment

MPC included in its interim filing an annualization of 1990 labor cost increases. Among those increases were some effective dates after August 29, 1990. In this interim proceeding, the Commission rejects all annualized labor costs to be effective after August 29, 1990, on the basis that these costs are not known and measurable. Therefore, the Commission finds that a reduction in labor expense is proper and approves an adjustment in the amount of \$713,767 in this interim proceeding to reflect known and measurable labor costs.

#### Plant Acquisition Tax Benefits Adjustment

Prior to this filing, MPC, because of an agreement with the Internal Revenue Service (IRS), had been flowing through tax benefits from the plant acquisition

adjustment, resulting from the difference between the Commission and the Federal Energy Regulatory Commission plant valuations, at the rate of 50 percent to its customers. Subsequently, a Congressional committee has rejected the agreement between MPC and the IRS, and MPC has entered into negotiations with the IRS. In its interim filing, MPC included a benefits flow-through rate of 40 percent, a level which is currently being negotiated but has not been approved. In this unsettled matter, the Commission finds that a conservative approach is proper in this Interim Order.

Therefore, the Commission finds that the last approved benefits flow-through level of 50 percent is appropriate in this interim proceeding and approves a reduction in deferred income taxes in the amount of \$68,303.

#### Prior Period Indirect Costs Adjustment

In order to conform with the Commission findings in Docket No. 88.6.15, the Company proposed to reflect a prior period adjustment for indirect costs being capitalized rather than expensed. After its analysis of this proposed adjustment, the Commission determined that the transition of these cost items from being reflected in MPC's Income Statement to its Balance Sheet would require the elimination of the 1988 Rate Base piece in order to avoid double collection by MPC from its ratepayers. Through the process of ratemaking, the Commission had set over the years an approved level of indirect costs expense which MPC was recovering through rates. The Commission finds that the 1988 capitalized indirect costs must be eliminated from MPC's proposed Rate Base in order to avoid further recovery of these costs.

Therefore, the Commission finds that the elimination of 1988 amounts from the proposed prior period indirect costs adjustment is proper and approves a reduction in depreciation expense in the amount of \$124,050 and a reduction in Rate Base in the amount of \$3,268,652 in this interim proceeding.

#### Property Tax Settlement Adjustment

In its interim filing, MPC did not reflect the effects of a property tax settlement between the Company and the Montana Department of Revenue (DOR). The Company does reflect the settlement in its general case in this docket. The Commission finds that reflecting the effects of this property tax settlement between MPC and the DOR requires a conservative approach since this matter will be examined in the general case.

In order to avoid prejudging any aspect of this matter on a final basis, the Commission finds that utilization of MPC's proposed method of inclusion of the

settlement in the general case, including the amortization of the effects of the settlement over a five year period, is proper in this interim proceeding. Therefore, the Commission finds that the reflection of the tax settlement between MPC and the DOR is proper in this interim proceeding and approves a reduction in Administrative and General expense in the amount of \$905,562 and a reduction in Rate Base in the amount of \$1,393,320.

#### CIS/FMS Stipulation Adjustment

An issue in Docket No. 88.6.15 that was left unresolved and left for future consideration was the costs associated with MPC's two new computer programs, Customer Information Systems (CIS) and Financial Management Systems (FMS). On July 25, 1990, the Commission received a stipulation between MPC and Montana Consumer Counsel (MCC) regarding the CIS/FMS issues in Docket No. 88.6.15. In the cover letter to the stipulation was a request that the Commission consider implementing the stipulation along with the August 29, 1990, Rate Moderation Plan rate change and the proposed interim rate change in this docket. The intent of this stipulation is to close out Docket No. 88.6.15. On August 22, 1990, the Commission approved the stipulation on an interim basis. Therefore, the Commission finds that inclusion of the CIS/FMS stipulation is proper in this interim proceeding and approves an increase in depreciation expense in the amount of \$67,250, an increase in amortization expense in the amount of \$337,956, and an increase in Rate Base in the amount of \$4,224,839.

#### Interest Synchronization Adjustment

MPC calculated the interest synchronization using the same procedure approved by the Commission in past decisions. The Commission continues to approve the use of the interest synchronization adjustment to give recognition in current rates of the deduction of interest on construction borrowings. Therefore, based on the approved level of Rate Base and cost of weighted debt capital in this interim proceeding, the Commission finds an increase in corporate environmental tax in the amount of \$2,891, an increase in Federal income taxes in the amount of \$818,992, and an increase in Montana corporation license tax in the amount of \$183,747 to reflect interest synchronization to be proper in this interim proceeding.

#### WNP-1 Accrual

On July 2, 1990, the Commission approved Interim Order No. 5484 in Docket No. 90.6.39, which gave MPC interim authority to accrue unreflected costs of WNP-1

power from the effective date of that order to August 29, 1990, and said in the Order section that those accrued costs shall be amortized in an August 29, 1990, interim rate change. Those costs are subject to refund with interest. Pursuant to the decision in Interim Order No. 5484, the Commission finds that it is proper to include the WNP-1 accrual in this Interim Order and approves an increase in purchased power expense in the amount of \$1,939,891.

#### Revenue Requirement

Based on the above Findings of Fact, the following table shows that an increase in MPC's annual electric revenues in the amount of \$28,078,163 on a total system basis is necessary in order to provide the opportunity to earn an overall rate of return of 10.44 percent. Added to that increase in revenue requirement is the WNP-1 accrual amount of \$1,939,891. A following table shows that the resulting combined Montana jurisdictional approved increase in annual electric revenues, based on the results of the REC Jurisdictional Allocation Study, is \$30,483,417.

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Montana Power Company

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REC Separation Study

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1989 Test Year

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#### Required Interim Revenue Increase

	Total Electric	REC Portion	Montana Jurisdic.
Rate Base	\$863,349,885	\$37,292,611	\$826,057,274
Rate of Return	x 10.44%	x 10.44%	x 10.44%
Return on Rate Base	\$90,133,728	\$3,893,349	\$86,240,379
Less: Net Income	71,789,505	4,174,718	67,614,787
Required Incr./Decr.	\$18,344,223	\$(281,370)	\$18,625,593
Add:			
Corp. Envir. Tax	33,393	(512)	33,905
MPSC Tax	48,037	(737)	48,773
Consumer Counsel Tax	27,021	(414)	27,435
Federal Income Tax	9,450,054	(144,948)	9,595,002
MT Corp. Lic. Tax	2,120,188	(32,520)	2,152,708
Total Rev. Incr./Decr.	\$30,022,920	\$(460,501)	\$30,483,417
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#### Other Matters

The Commission finds that the interest rate that should be applied in calculating any refunds that might result from this Interim Order will be calculated at MPC's last approved return on equity level of 12.50 percent.

Based on the above Findings of Fact and resulting approved interim increase in annual revenue requirement, the Commission directs MPC to file compliance tariffs reflecting this change in revenue.

The Commission finds that MPC must apply this annual revenue increase to all customer classes on an equal percentage basis.

For purposes of this Interim Order, the Commission determines that MPC's filing is complete.

All other MPC requests for interim approval in this filing are specifically denied.

#### CONCLUSIONS OF LAW

Applicant, Montana Power Company, provides electric service within the State of Montana and as such is a "public utility" within the meaning of Section 69-3-101, MCA.

The Montana Public Service Commission properly exercises jurisdiction over the Applicant's Montana rates and operations pursuant to Title 69, Chapter 3, MCA. Section 69-3-304, MCA, provides, in part, that the Commission may, in its discretion, make temporary approvals of requests pending a hearing or final decision.

The rate levels and spread approved herein are a reasonable means of providing interim relief to MPC.

The rebate provisions of Section 69-3-304, MCA, protect ratepayers until there is a Final Order in this Docket.

#### ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

Applicant, Montana Power Company, is hereby ordered to implement on an interim basis rates designed to increase annual Montana jurisdictional electric revenues by \$30,483,417 (including the WNP-1 accrual) on a uniform percentage basis. Applicant is hereby ordered to adhere to and to abide by all Findings of Fact in this Interim Order, and rate schedules shall comport with all Commission determinations set forth in this Interim Order.

Applicant must file tariffs in compliance with the Findings of Fact in this Interim Order.

Nothing in this Interim Order precludes the Commission from adopting in its Final Order, after reviewing the entire record in this Docket, a revenue requirement different from that contained in this Interim Order.

Any refunds associated with the annual revenue increase granted in this Interim Order will be computed at MPC's last approved level of return on equity, 12.50 percent.

Interim approval of any matters in this proceeding should not be viewed as final endorsement by the Commission of any issues, calculations, or methodologies approved in this Interim Order.

The interim annual revenue increase granted in this Interim Order is to be effective for electric service rendered on and after August 29, 1990.

The Commission accepts, for interim purposes, MPC's request that this is a complete filing and reserves final ruling on this matter until a Final Order is issued.



DONE IN OPEN SESSION at Helena, Montana, this 28th day of August, 1990, by a 4 -  
1 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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HOWARD L. ELLIS, Chairman

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DANNY OBERG, Vice Chairman

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WALLACE W. "WALLY" MERCER, Commissioner

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JOHN B. DRISCOLL, Commissioner  
Voted to Dissent.  
Written Dissent attached.

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REX MANUEL, Commissioner

ATTEST:

Ann Peck  
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this  
decision. A motion to reconsider must be filed within ten (10) days. See  
38.2.4806, ARM.

August 28, 1990  
Dissenting Opinion  
John Driscoll

This written dissent from an interim order is unprecedented. In my judgement, this Interim Order represents the most extreme swing of the policy pendulum in favor of the regulated utilities.

While not prejudging the main case, my reasons for dissenting are:

1. This order is not based upon "consistent standards appropriate to the nature of the case", as required by Montana Law (MCA 69-3-304);
2. This order is not being approved in conjunction with a "permanent rate case proceeding" (ARM 38.5.502), for which "all prefiled direct testimony and exhibits supporting the general rate increase request have been submitted" (ARM 38.5.505);
3. This order is not using the methodology and rate of return on equity from the most recent Commission general rate order (ARM 38.5.506 (b));
4. This order is not in response to a clear showing that deferring rate relief "will result in irreparable financial harm to the petitioning utility (ARM38.5.506(c); and
5. This order does not follow the unwritten custom of the Commission to disallow items that are being contested in the main case.

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My first objection is valid to the degree that the last four are valid, since variation from each of those three cited rules, and the custom, means the Commission has varied from its "consistent standards".

My second objection is valid on its face since its clear that Montana Power will not have completely filed its permanent case, until it has completed the Cost of Service portion of the filing. Satisfaction of Commission minimum filing standards will occur until sometime in September, long after the \$30.6 million in rates from this Interim Order are expected to go into effect.

My third objection is the Commission's failure to return to the cost of capital methodology of the previous general rate case. The reason the Commission didn't, is because it can't. In the last case the cost of capital, including

the apportionment of capital structure between debt and equity, was left undecided by the Commission; there was no methodology. Instead the Commission received a stipulation concerning cost of capital on May 10, 1989, several months before the main order was issued. In the stipulation (p. 5), the capital structure used in this Interim Order first surfaced. What is most important, however, is that there was no Commission approved methodology, but rather some arbitrary rate of return and interest cost numbers, and an arbitrary apportionment of debt and equity.

If there was a methodology adopted by the Commission it was contained in the May 25, 1989 Staff Memo

(Mark Lee) regarding the proposed stipulation, as it was before the Commission. In his Memo Mr. Lee drew the Commission's attention to certain "benchmarks", including the FERC generic cost of capital determination, the current Treasury Bond yield rate, current long term interest rates, and return on equity determinations made by other states as reported in Public Utilities Fortnightly. In other words the stipulation process with its arbitrary numbers, and lack of any expert testimony in a contested case environment, left the Commission to depend on expert testimony from its own staff to give us a ball park feeling for the reasonableness of the proposed cost of capital; no reasonableness of capital structure was discussed.

In this Interim Order the Commission is leaving the ratepayer with the feeling that a prior methodology has been again adopted, when reality couldn't be farther from the truth. There was no method in the stipulated order, and none in the staff recommendation to the Commission. In fact in the last main rate case order (88.6.15), Finding #41, the Commission directed Montana Power and Montana Consumer Counsel to "try to negotiate a methodology for capital structure". The parties had until December 31, 1989 to develop a methodology, and if none could be developed, they were to each present their recommendations to the Commission in the next (this) rate case. With no methodology from the prior rate case, the commission is making a clear departure from its own publicly adopted "consistent standards".

My fourth objection is that there has been no showing of "irreparable harm" by Montana Power, should it not receive this Interim relief.

I easily recall the tense times of the early eighties when the cost of money to utilities was rising uncontrollably.

The Commission, of which I was a member, was anxious to give the utilities relief from "regulatory lag".

In other words, get them some money fast, so that they wouldn't be "irreparably hurt" by the constantly rising pressure of capital costs. The interim rules, which we hoped to be our "consistent standards" were gingerly adopted June 30, 1982.

The table below shows us where the cost of money was at that time. It was just peaking, and, from hindsight, just beginning to drop! Note that this graph is for borrowed money; the cost of equity generally runs 1.5% higher than Treasury Bonds.

Though spawned for a time when things really were tight for utilities, this Commission, myself included, has chose to keep the interim mechanism intact on almost a mechanical "business as usual" basis.

Its interesting to note that in its last quarterly report Montana Power announced June 27 request for increases of \$60.7 million and \$9.6 million for its electric and gas customers, respectively. It then went on to say that it had also filed for interim increases of \$30.6 million and \$5.6 million, respectively. In Montana Power's assurance to its stockholders, it also said: "The PSC typically acts on interim rate matters within one to three months after receiving an interim request."

In its Interim application the company alleges "irreparable financial harm" and the need to "halt the continuing deterioration of the financial condition of the Electric and Natural Gas Utilities." No where, except perhaps with the WNP-1 contract, does it even attempt to make a "clear showing" to support its allegation, as required in our rules. The Commission unanimously, three days after the filing, approved an accounting order that will make Montana Power whole for its WNP-1 contract, should the final order find that settlement acceptable.

The absence of a clear showing, combined with obvious indications that the cost of money is dropping, the arbitrary capital structure approved in the last order included too much expensive equity as far as the Consumer Counsel was concerned, the company has just received nearly immediate relief of \$5 million on an Interim basis for QF facility power costs, and the liklihood that virtually all adjustments in this case will be contested lead one to wonder why the Commission is so anxious to approve this enormous rate increase on an interim basis.

My fifth and final objection is the departure from Commission "custom" of not approving adjustments that are likely to be contested in the main case. Its

hard to know at this point what will be contested, since the prefiled direct testimony of all intervenors will not be in the Commission offices until late September, according to the procedural order.

The Commission with this Interim Order has now evolved to an extreme position. Instead of mechanically approving interims, which is certainly questionable enough from the rate payer's point of view, the Commission is now stumbling over itself to get a huge amount of revenue into the hands of the utility...for no apparent good reason.

I appreciate the magic of using the August 29 date suggested by the utility. Its the date that the phasing in of Colstrip 3 costs that have been regularly increasing for 5 years, will finally turn in favor of the ratepayer.

On August 29, the effective date of this Interim Order, those costs are expected to drop \$8 million. The Commission, looking at a \$70.3 million rate increase request, right on the heels of an \$8 million request for QF power costs, is anxious to phase in the impact, and to absorb part of the impact by offsetting it with the expected \$8 million reduction.

To that approach, I will offer these dissenting observations:

1. The last main rate case for Montana Power started with a combined request for \$42.5 million. Midway they adjusted their request downward to \$31.7 million. In pre decisions stipulations they further adjusted their request downward to \$12.8 million. The Commission finally approved a combined decrease of \$10.2 million. The difference between the request and the final, combined, was \$52.3 million dollars!

Clearly the Commission should not hustle to adopt an interim order to make the August 29 "easier to absorb" date, simply out of fear of the initial numbers in the application, and

2. The desire to "phase in" a proposed big rate increase implies that the rate increase is justified; that requires "prejudgement".

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Would we be harsh, if we were to wait the normal course of expert testimony, public hearing, and orders

process? I honestly don't think so. The last rate case was based upon a test year ended 12/31/87, adjusted for known and measurable changes. In 1987 Montana Power's Earnings per share from the utility side was \$2.54. Our rate decrease must not have been so difficult as to discourage adept business practice

on the part of Montana Power Management. In 1988 and 1989 utility operating revenues rose 5% and 8%, and net income from the utility rose 1% and 11%. Earnings per share went from the \$2.54 in the last test year (87) to \$2.84 in 1988, and \$2.90 in 1989 (adjusted for the 2 for 1 split).

In conclusion, I strongly dissent from this interim order not only because it is the worst example of a bad practice, but because I believe Interim Orders should become a privilege available to utilities, in only the most critical circumstances. That after all, is what we thought we were putting into place back in 1982 when we first approved the rules for interim orders.

Respectfully,

John B. Driscoll  
Commissioner